

IC 5-14-5

Chapter 5. Formal Complaint Procedure

IC 5-14-5-1

"Counselor" defined

Sec. 1. As used in this chapter, "counselor" refers to the public access counselor appointed under IC 5-14-4-6.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-2

"Person" defined

Sec. 2. As used in this chapter, "person" means an individual, a business, a corporation, an association, or an organization. The term does not include a public agency.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-3

"Public agency" defined

Sec. 3. As used in this chapter, "public agency" has the meaning set forth in:

- (1) IC 5-14-1.5-2, for purposes of matters concerning public meetings; and
- (2) IC 5-14-3-2, for purposes of matters concerning public records.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-4

Complaint not required to file action

Sec. 4. A person or a public agency is not required to file a complaint under this chapter before filing an action under IC 5-14-1.5 or IC 5-14-3.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-5

Cooperation from public agencies

Sec. 5. A public agency shall cooperate with the counselor in any investigation or proceeding under this chapter.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-6

Grounds for complaint

Sec. 6. A person or a public agency denied:

- (1) the right to inspect or copy records under IC 5-14-3;
- (2) the right to attend any public meeting of a public agency in violation of IC 5-14-1.5; or
- (3) any other right conferred by IC 5-14-3 or IC 5-14-1.5 or any other state statute or rule governing access to public meetings or public records;

may file a formal complaint with the counselor under the procedure prescribed by this chapter or may make an informal inquiry under

IC 5-14-4-10(5).

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-7

Time for filing complaint

Sec. 7. (a) A person or a public agency that chooses to file a formal complaint with the counselor must file the complaint not later than thirty (30) days after:

(1) the denial; or

(2) the person filing the complaint receives notice in fact that a meeting was held by a public agency, if the meeting was conducted secretly or without notice.

(b) A complaint is considered filed on the date it is:

(1) received by the counselor; or

(2) postmarked, if received more than thirty (30) days after the date of the denial that is the subject of the complaint.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-8

Complaint forwarded to public agency

Sec. 8. When the counselor receives a complaint under section 7 of this chapter, the counselor shall immediately forward a copy of the complaint to the public agency that is the subject of the complaint.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-9

Advisory opinion

Sec. 9. Except as provided in section 10 of this chapter, the counselor shall issue an advisory opinion on the complaint not later than thirty (30) days after the complaint is filed.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-10

Priority of complaints

Sec. 10. (a) If the counselor determines that a complaint has priority, the counselor shall issue an advisory opinion on the complaint not later than seven (7) days after the complaint is filed.

(b) The counselor shall adopt rules under IC 4-22-2 establishing criteria for complaints that have priority.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-11

Form of complaint

Sec. 11. The public access counselor shall determine the form of a formal complaint filed under this chapter.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-12

Statute of limitations

Sec. 12. The filing of a formal complaint under this chapter does

not delay the running of a statute of limitation that applies to a lawsuit under IC 5-14-1.5 or IC 5-14-3 concerning the subject matter of the complaint.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.